

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

<p>LILIAN AIDOO, on behalf of herself and all others similarly situated,</p> <p>Plaintiff,</p> <p>vs.</p> <p>ASSET ACCEPTANCE LLC,</p> <p>Defendant.</p>	<p>Civil Action No.: 08-CV-6217 (LTS)(DFE)</p> <p>DECLARATION IN SUPPORT OF MOTION TO DISMISS</p>
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Thomas R. Dominczyk, pursuant to 28 U.S.C. § 1746, hereby declares as follows:

1. I am an Attorney at Law of the State of New York and an employee of the law firm of Maurice and Needleman, P.C., attorneys for Defendant ASSET ACCEPTANCE LLC and am fully familiar with the within matter.
2. On or about July 9, 2008, Lilian Aidoo (hereinafter referred to as "Aidoo") filed a Complaint against Asset Acceptance, LLC (hereinafter referred to as "Asset") seeking damages for alleged violations of the Fair Debt Collection Practices Act (hereinafter the "FDCPA"). A copy of the Complaint is attached hereto as Exhibit "A".
3. The Complaint alleges that Asset violated the FDCPA by attempting to collect a debt without evidencing that Asset was the current creditor and by falsely representing that Asset was a purchaser for value.
4. The Complaint alleges that a collection letter sent by Asset to Aidoo violated 15 U.S.C. 1692g(a)(4) because it did not evidence that Asset was the current creditor.
5. The Complaint further alleges that the letter violated 15 U.S.C. 1692e(12) because it falsely represented that Asset was a purchaser for value.

6. Aidoo's Complaint fails to state a claim under either section of the FDCPA as even a most liberal reading by the most unsophisticated consumer could not lead to the interpretation proposed by Aidoo's Complaint.

7. Therefore, the Complaint must be dismissed for failure to state a claim pursuant to Rule 12(b)(6).

8. Prior to filing the within Motion to Dismiss, I attempted to resolve this matter with Plaintiff's attorney via telephone calls. However, said efforts were unsuccessful.

Respectfully submitted,
MAURICE & NEEDLEMAN, P.C.
ATTORNEYS FOR DEFENDANT

Dated: August 29, 2008

/s/ Thomas R. Dominczyk
Thomas R. Dominczyk (TD7835)
5 Walter E. Foran Blvd., Suite 2007
Flemington, NJ 08822
(908) 237-4550, (908) 237-4551(fax)
trd@mnlawpc.com

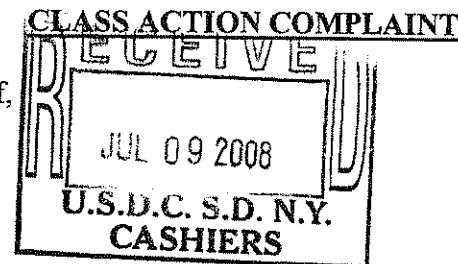
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LILIAN AIDOO,
on behalf of herself and all others similarly situated,

-against-

ASSET ACCEPTANCE LLC

Plaintiff,



Defendant.

Plaintiff, by and through her undersigned attorney, alleges upon knowledge as to herself and her own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on her own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.
3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Lilian Aidoo (hereinafter "Aidoo") is a resident of the State of New York, Bronx County. On or about May 6, 2008, plaintiff received a debt collection notice from defendant Asset Acceptance LLC.

5. Defendant Asset Acceptance, LLC is a collection agency engaged in the business of collecting debts with its principal place of business located in Delaware. Defendant regularly attempts to collect debts alleged to be due another. Its Registered Agent is the CT Corporation System, 111 Eighth Avenue, Floor 13, New York, NY 10011.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action as a nationwide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter "FRCP"), on behalf of herself and all consumers who have received debt collection notices and/or letters from the defendant which are in violation of the FDCPA, as of the date of plaintiff's complaint, and their successors in interest (the "Class"). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of Asset Acceptance, LLC.

7. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

8. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, hundreds of persons have received debt collection notices from the defendant which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

a. Whether the defendant violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e(12) and 1692g(a)(4).

b. Whether plaintiff and the Class have been injured by the defendant's conduct;

c. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

d. Whether plaintiff and the Class are entitled to declaratory and/or injunctive relief.

10. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

11. Plaintiff will fairly and adequately protect the interests of the Class and has retained experienced counsel, competent in the prosecution of class action litigation.

12. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

13. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

14. Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

15. On or about May 6, 2008 , the defendant did send to the plaintiff a collection letter. Copy of said letter is annexed hereto as Exhibit A.

16. The May 6, 2008 collection letter stated that Asset Acceptance LLC purchased Ms. Aidoo's Newport News account, with a balance of \$381.45.

17. On May 21, 2008, Ms. Aidoo disputed the assertion that Asset Acceptance LLC purchased the Newport News account and demanded verification that Asset Acceptance LLC was the new owner. Exhibit B.

18. On June 3, 2008, Asset Acceptance LLC sent the consumer a letter captioned "DEBT VALIDATION" which failed to evidence that Asset Acceptance LLC was the creditor and which failed to indicate material information including the last transaction date. Exhibit C.

19. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

20. Each of the above allegations is incorporated herein.

21. Defendant's debt collection letter violated various provisions of the FDCPA, including but not limited to 15 U.S.C. § 1692g(a)(4) by attempting to collect a debt without evidencing that Asset Acceptance is the current creditor.

22. Defendant's debt collection letter violated 15 U.S.C. § 1692e(12) by falsely representing that Asset Acceptance LLC is as purchaser for value.
23. As a result of defendant's violations of the FDCPA, plaintiff has been damaged and is entitled to statutory damages, costs and attorney's fees.

WHEREFORE, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Awarding plaintiff statutory damages;
- c) Awarding class members the maximum statutory damages.
- d) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- e) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: July 9, 2008
Uniondale, New York



Abraham Kleinman (AK-6300)
KLEINMAN LLC
626 RexCorp Plaza
Uniondale, New York 11556-0626
Telephone (516) 522-2621
Facsimile (888) 522-1692

19/05 2008 09:46 FAX 917182934674

QUISQUEYA MULTI SERVI

4001
Toll Free 800-398-8814 Ext.
LOCAL: 480-403-6400
LOCAL OFFICE: Phoenix, AZ

Asset Acceptance LLC

New York City License No. 1255250

First Notice

May 6, 2008

RE:

NEWPORT NEWS / WORLD FINANCIAL

NETWORK NATIONAL BANK

ORIGINAL ACCT#: 5856373385942128

ASSET ACCEPTANCE LLC ACCT#: 36979983

BALANCE PAST DUE: \$381.45

Dear LILIAN AIDOO:

It is our pleasure to welcome you as a new customer of Asset Acceptance LLC. Your account with the above mentioned creditor has been purchased and is now owned by Asset Acceptance LLC. In order to insure proper credit for any payments it is necessary that all future payments and inquiries be made to:

ASSET ACCEPTANCE LLC

PO Box 2036

Warren, MI 48090-2036

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice, this office will provide you with the name and address of the original creditor, if different from the current creditor.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Sincerely,

PAUL NOLAN - Phone: Toll Free 800-398-8814 Ext.

Debt Collector

Asset Acceptance LLC

We may report information about your account to credit bureaus.

See Reverse Side for Important Information Regarding Your Privacy Rights.

IONASSE010100AACAZ

Detach Lower Portion and Return with Payment

Asset Acceptance LLC Account #: 36979983
Balance Past Due: \$381.45



PO Box 2039
Warren MI 48090-2039

ADDRESS SERVICE REQUESTED

May 6, 2008

#BWNJVGZ
#0000000369799838# 0354050 0079688 36979983-8100

ASSET ACCEPTANCE LLC
PO Box 2036
Warren MI 48090-2036

LILIAN AIDOO
200 MARCY PLACE, APT. 5E
BRONX, NY 10456

May 21, 2008

ASSET ACCEPTANCE LLC
PO Box 2036
Warren, MI 48090-2036

Re: ASSET ACCEPTANCE LLC ACCOUNT #: 36979983

Dear Asset Acceptance LLC:

I dispute the assertion that Asset Acceptance LLC purchased and now owns this Disputed Newport News/World Financial Network National Bank account.

Please send me verification that Asset Acceptance LLC purchased this Disputed debt.

Please send me verification of this disputed \$381.45 debt.

Please send me the Address of the Original Creditor.

Thank You,

Ltd, 100

Lilian Aidoo

ASSET ACCEPTANCE LLC

P.O. BOX 50800 ■ PHOENIX, AZ 85076
Toll Free 800-398-8814 ■ Ext.

June 3, 2008

NEW YORK CITY LICENSE NO. 1255250

36979983-4530-0Z1
LILIAN AIDOO
200 MARCY PL APT 5E
BRONX NY 10456

RE: Asset Acceptance LLC Account #: 36979983
Newport News / World Financial Network National Bank Account #: 5856373385942128

Dear Lilian Aidoo,

Thank you for your request for further validation of your above mentioned account.

Enclosed please find an account statement prepared with information provided to us by the prior creditor.

Please contact me so that we can work toward resolving this matter.

This is an attempt to collect a debt and any information obtained will be used for that purpose.

Sincerely,

PAUL NOLAN - Phone: 800-398-8814 Ext.
Debt Collector

ASSET ACCEPTANCE LLC

P.O. BOX 50800 ■ PHOENIX, AZ 85076
Toll Free 800-398-8814 ■ Ext.

June 3, 2008
Asset Acceptance LLC Account #: 36979983

DEBT VALIDATION

PRIOR/ORIGINAL CREDITOR
NEWPORT NEWS/WFNNB
9300 SW GEMINI DR
BEAVERTON, OR 97008

ORIGINAL ACCOUNT NUMBER
5856373385942128

NAME BALANCE
LILIAN AIDOO \$381.45

LAST TRANSACTION DATE

PERSONAL INFORMATION

Address City/St/Zip	200 MARCY PL APT 5E BRONX, NY 10456	Social Security #	XXX-XX-8190
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For Personal Assistance Call
PAUL NOLAN Toll-Free 800-398-8814 Ext.

Please make payment to:
Asset Acceptance LLC
PO Box 2036

Warren, MI 48090

Please include account number on your payment.

THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION OBTAINED
WILL BE USED FOR THAT PURPOSE.